



RESOLUTION

ESTABLISHING A CITY POLICY TO CONTINUE THE WAIMANALO GULCH SANITARY LANDFILL AS AN OAHU LANDFILL.

WHEREAS, the City Waimanalo Gulch Sanitary Landfill ("Waimanalo landfill") began operations in August of 1989; and

WHEREAS, on March 27, 2003, the State Land Use Commission ("LUC") voted to approve a special use permit authorizing the expansion of the Waimanalo landfill by 21 acres, subject to the condition that the 200-acre property be restricted from accepting any further municipal waste material and be closed on May 1, 2008, and that the City Council be required to select a site for a new landfill by December 1, 2004; and

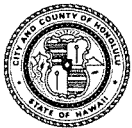
WHEREAS, on December 1, 2003, the Mayor's 2003 Advisory Blue Ribbon Site Selection Committee ("2003 Advisory Committee"), submitted a report to the City Council that recommended the following four sites for consideration of a new landfill: Ameron Quarry, Maili Quarry, Makaiwa Gulch, and Nanakuli B; and

WHEREAS, because the 2003 Advisory Committee was fractured by dissension, the report's recommendation did not include the top-ranked site, the Waimanalo Gulch site, which, like all the sites reviewed, had been evaluated using a double-blind methodology; and

WHEREAS, after the submission of the 2003 Advisory Committee report to the City Council, the Council's Committee on Public Works and Economic Development reviewed the sites recommended by the 2003 Advisory Committee and also assessed the Waimanalo Gulch site, gleaning information from public and private sources during numerous committee meetings, and holding two public hearings in the community to gather public input; and

WHEREAS, on December 1, 2004, following the year-long review by the Council's Committee on Public Works and Economic Development, the City Council adopted Resolution 04-348, CD1, FD1, selecting the Waimanalo Gulch site for the City's landfill; and

WHEREAS, Resolution 04-348, CD1, FD1, noted that while the City Council was required to select a landfill site, it recognizes that the development of alternative technologies and the City's proposed island-wide recycling program have the potential to greatly reduce the amount of waste going into the Waimanalo landfill, and that the Council intends, to the extent possible, to effectively eliminate the need for a landfill in the future; and



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WHEREAS, Resolution 04-348, CD1, FD1, further noted that the Waimanalo Gulch site is selected as the site for the City's landfill because, among other reasons:

- If expanded, the site has over 15 years of capacity left;
- The City already owns the property and the infrastructure is in place, making the site the most economical and least expensive to develop and maintain as a landfill; and
- A landfill management contract is already in place and the landfill operator is committed to implementing necessary improvements to address community complaints over dust, odors, and other concerns;

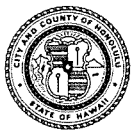
and

WHEREAS, on March 14, 2008, the LUC extended the special use permit closure deadline from May 1, 2008 to November 1, 2009, noting that the State Department of Health's February 2008 authorization to increase the height of landfill cells adds additional capacity; and

WHEREAS, on September 24, 2009, the LUC voted to approve a new special use permit that allows for the expansion of the Waimanalo landfill from 96 to 200 acres, and extends the life of the landfill to July 31, 2012, after which date only ash and residue from Honolulu's waste-to-energy facility, H-POWER, would be permitted (hereinafter "LUC condition"); and

WHEREAS, between November 2009 and August 2011, the following legal events occurred:

1. The City filed an appeal with the Circuit Court over the LUC condition prohibiting the Waimanalo landfill from receiving municipal solid waste after July 31, 2012;
2. The Circuit Court affirmed the LUC condition regarding the July 31, 2012 closure date and upon a request by the City for reconsideration, rendered a final judgment in support of its previous order; and
3. The City filed an appeal with the Intermediate Court of Appeals regarding the Circuit Court's final judgment, and later filed to transfer its appeal to the Hawaii Supreme Court, which accepted the transfer of the City's appeal;



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and

WHEREAS, on May 4, 2012, the Hawaii Supreme Court:

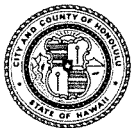
- Found that the LUC condition prohibiting the Waimanalo landfill from receiving municipal solid waste after July 31, 2012 was inconsistent with evidence in the record and not supported by substantial evidence; and
- Vacated the Circuit Court's affirmation of the LUC's Order and remanded the matter back to Circuit Court with instructions for the Circuit Court to remand the matter back to the LUC for further proceedings consistent with the Supreme Court's opinion. In addition the Supreme Court noted that the City has filed an appeal of the LUC condition with the City's Planning Commission that is proceeding, and that the Supreme Court encourages the LUC to consider any new testimony resulting from that proceeding;

and

WHEREAS, the Council finds that the arguments made in the Supreme Court's ruling are compelling, and that the City's inability to receive solid municipal waste at the Waimanalo landfill after July 31, 2012 would result in a health, safety and welfare crisis; and

WHEREAS, the Council further finds that the following factors are important considerations:

- With the expansion of the Waimanalo landfill from 96 to 200 acres, there is adequate capacity to continue operation of the landfill for at least another 15 years based on recent and historic rates of the amount of waste disposal;
- Our island will continue to need a landfill for the foreseeable future to handle materials that can't be recycled or converted into energy at H-POWER, or that result from a natural disaster;
- The development of an alternate landfill is projected to take seven years from site selection to the start of operations, well beyond the closure deadline of July 31, 2012; and
- The Waimanalo landfill has received a Solid Waste Operating Permit from the State Department of Health that allows the landfill to continue disposal



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of waste at the landfill until design grade (technical capacity) is met or until restricted by any limits of the special use permit, whichever occurs first;

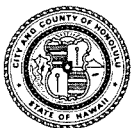
now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it hereby establishes a City policy that the Waimanalo Gulch Sanitary Landfill shall continue to serve as Oahu's landfill until its technical capacity is reached or its use is limited by either the State special use permit or the State Department of Health solid waste operating permit; and

BE IT FURTHER RESOLVED that the Administration is urged to do the following:

- Continue efforts to reduce overall volumes disposed at the Waimanalo landfill, including expanding the capacity of H-POWER with a fully operational third boiler online this year; seeking alternative solutions to the disposal of H-POWER ash and residue; expanding the search for alternative methods to divert sewage sludge from the landfill; ensuring that the island-wide residential curbside recycling program is maintained and operating effectively and efficiently; and further supporting other source reduction and recycling programs, including the recycling of demolition and construction debris, increasing multi-family dwelling and community recycling bins, enlarging provisions for e-waste disposal that ban all e-waste from the landfill, enforcing business waste recycling, and expanding public education regarding the need to reduce, reuse and recycle;
- Proceed with the environmental and technical evaluation of the list of potential sites forwarded to the Mayor by the Mayor's 2011 Advisory Committee on Landfill Site Selection in order to determine in a measured and prudent way the possible location of another landfill if one is needed before or by the time the Waimanalo landfill reaches capacity; and
- Continue to aggressively pursue emerging technologies and processes that may one day obviate the need for a landfill of any type;

and



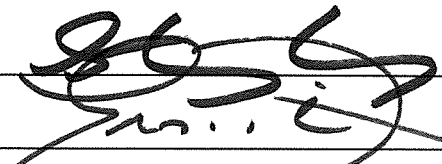
CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. 12-290

RESOLUTION

BE IT FINALLY RESOLVED that copies of this Resolution be sent to the Mayor; the Managing Director; the Director of Environmental Services; the City Planning Commission; and the State Land Use Commission.

INTRODUCED BY:



Councilmembers

DATE OF INTRODUCTION:

OCT 4 2012

Honolulu, Hawaii

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CITY OF HONOLULU
CITY CLERK
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